

EXHIBIT 4

Jeff Freimund

From: Guy Bogdanovich [gbogdanovich@lldkb.com]
Sent: Thursday, December 13, 2012 10:26 AM
To: Kathleen Zellner
Cc: Jeff Freimund; Fetterly, Patricia (ATG)
Subject: RE: Spencer v. Peters et al.

Counsel: We expect plaintiff to comply with the Court's Order Granting Defendants' Motion for Fed.R.Civ.P. 35 Examination. Even without Dr. Kuncel's testimony plaintiff has placed his mental health at issue and defendants are entitled to try to get at the truth about his claims. We don't believe plaintiff can now try to sidestep the Court's Order by unilaterally and belatedly raising a timeliness issue about Dr. Klein's disclosure, when that issue wasn't once mentioned in support of plaintiff's refusal to agree to the IME in the first place. Frankly, this whole maneuver seems to be a stunning admission of the lack of merit of the damages claimed, and we don't believe it would be condoned by the Court.

Again, we expect compliance with the existing Court Order. Please promptly reply with confirmation of the examination details provided yesterday. If you choose not to, we believe it is up to you to move for relief from the Order.

Guy

From: Kathleen Zellner [mailto:kathleen.zellner@gmail.com]
Sent: Thursday, December 13, 2012 10:02 AM
To: Jeff Freimund; Fetterly, Patricia (ATG); Guy Bogdanovich
Subject: Spencer v. Peters et al.

Counsel,

I am writing to inform you that I will not be calling Dr. Kuncel to testify at trial. I am therefore canceling her deposition scheduled for Monday.

You first disclosed Dr. Klein as a rebuttal expert on November 7, which was the last day for disclosing rebuttal expert reports. That was also the first date that you requested an examination of my client by Dr. Klein. Dr. Klein has only been disclosed in the capacity of a rebuttal expert. Because I will not be calling Dr. Kuncel to testify, Ray Spencer will not be appearing for the examination on December 21.

Sincerely,

Kathleen T. Zellner

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